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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,514	12/09/2003	Paul H. Lundeen	48231-01011	3727

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Holme Roberts & Owen, LLP
Suite 1300
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Colorado Springs, CO 80903

EXAMINER

GREENHUT, CHARLES N

ART UNIT	PAPER NUMBER
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3652

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04/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/731,514	Applicant(s) LUNDEEN, PAUL H.	
	Examiner CHARLES N. GREENHUT	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

I. Request for Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/17/08 has been entered.

II. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 15-37 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over NEUFELDT (US 3,709,388 A) in view of SCHUTZ (US 2,271,444 A).

- 1.1. With respect to claim(s) 15, 24 and 33, NEUFELDT discloses a vehicle (10), having a chassis (14), including a storage area (15), supported by a pair of opposite wheels (Fig. 1 no numeral) for movement on a support surface (ground), each wheel having a rim and tire (Fig. 1), the storage area (15) having a portion (e.g., right side viewed from Fig. 4) with a bottom (20), positioned at a height above the support surface (Fig. 4), and about the height of the rims (Fig. 4), the portion having a lower edge (below 50), the loading apparatus (35) comprising a chute (18b) extending (e.g., laterally) from the rear of the vehicle (10), having a slide surface (e.g., top surface in open position), positioned proximate the lower edge extending downwardly away

therefrom (position A), toward a bottom edge of the chute (18b/21a interface), planar receiving member (21a) having a front edge (21a/18b interface) attached to the bottom edge of the chute (18b), and a rear edge (e.g., 21a/b interface), having rim (21b) spaced from the front edge (21a/18b interface), defining a loading area (position A), connector arrangement (50/51) pivotally connecting the chute (18b) to a rear support member (25) of the vehicle proximate the lower edge (below 50), operation means (71) for moving the apparatus (35) between a deployed position (A) and a transfer position (C). NEUFELDT fails to define a specific dimension for the chute. It is known in the art that chutes may extend substantially the width of a vehicle, as demonstrated, for example, by SCHUTZ which teaches, chute (at 19) extending substantially the width (See Fig. 1-2) of the vehicle (10-14). Extending the chute substantially the width of the vehicle is the product of choosing from a finite number of identified predictable solutions with a reasonable expectation of success and therefore would have been obvious to one having ordinary skill in the art.

- 1.2. With respect to claim(s) 16, 18, 20-23, 25, 27, 29-32, 34, 36, and 38-41, NEUFELDT additionally discloses side walls (36) a retaining wall (21b) connected to and extending upwardly from a rear edge of the receiving member (21a), configured to retain material on the loading area (defined by 21a), the loading area disposed horizontally above the support surface (Fig. 4) in the deployed position (A), the receiving member (21a) making no contact with the support surface (Fig. 4), and joining the chute (18b) at an angle between 90° and 180°.

1.3. With respect to claim(s) 17, 19, 26, 28, 35, and 37, NEUFELDT does not discuss specific dimensions of the sidewalls (36). Changing the dimension of the sidewalls involves merely the resizing of parts to obtain predictable results. For example, making the sidewalls (36) larger would allow the loading apparatus (35) to accommodate more material before the dumping operation, while making the sidewalls (36) smaller would facilitate depositing material into the loading apparatus (35). It would have been obvious to one having ordinary skill in the art to dimension the sidewalls appropriately for the material being collected.

III. Response to Applicant's Arguments

Applicant's arguments entered 3/17/08 have been fully considered.

1. Applicant has, by amendment, overcome the rejections previously set forth. Upon further consideration, however, a new ground for rejection is presented above. Applicant's arguments are deemed moot in light of the new grounds for rejection presented herein.

IV. Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.
3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached at (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Art Unit: 3652

4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG

/C. N. G./

Examiner, Art Unit 3652

/Saúl J. Rodríguez/

Supervisory Patent Examiner, Art Unit 3652